

DAM AND RESERVOIR SAFETY COUNCIL MEETING
DEPARTMENT OF NATURAL RESOURCES
GEOLOGICAL SURVEY AND RESOURCE ASSESSMENT DIVISION
CONFERENCE ROOM
ROLLA, MISSOURI

June 28, 2004

Mary Hagerty, Chairman of the Dam and Reservoir Safety Council, called the meeting to order at 10:00 a.m. in the conference room at the Geological Survey and Resource Assessment Division in Rolla, Missouri.

Council members present were Mary Hagerty, Dean E. Freeman, Zoretta Schoonover, Jeff Cawlfeld and Richard Frueh. Members of the Water Resources Program (WRP) present were Jim Alexander, Tammy Theilen, Robert Clay, and Matthew Dunn. Representing the Attorney General's Office was Shannon Haney, Assistant Attorney General and Mimi Garstang, Division Director; Geological Resource and Assessment Division.

INTRODUCTION OF GUESTS

Guests present were Clarence Schoonover, Russ Adams, Bourbeuse Engineering Services, Betty Freeman, Bill Anderson, Anderson & Associates representing Warren Dean; Brian Swenty; Jimmy Creten, dam owner; and Guy Wood, dam owner. Mary Hagerty asked everyone to introduce themselves and invited questions and comments as they had input into the meeting.

MINUTES OF THE MARCH 10, 2004 COUNCIL MEETING

Mary Hagerty asked if anyone had any comments regarding the March 10, 2004 council meeting minutes. Jeff Cawlfeld made a motion to accept the minutes of the March 10, 2004 meeting as written. Zoretta Schoonover seconded the motion and the motion passed.

STATUS OF PERMITS

The council was updated on the number of permits that the program has issued since the last meeting, the new dams that are currently under construction, and where the program stands with regard to bringing the total number of regulated dams into compliance.

COUNCIL ACTION & UPDATE

Mr. Alexander began by explaining to the audience what had occurred within the Dam Safety Program since last year when our positions were eliminated and we could no longer perform the dam inspections. He said the funding for the two engineering positions had been placed back into our budget for FY05. As a result of this, Dam Safety would begin doing inspections for dam owners again beginning July 1, 2004. There were approximately 240 dams that had permits expire during FY04. Approximately 170 dam owners hired a private engineer and had their permits renewed. This left approximately 70 dams that did not hire an engineer and renew their permit. The program has proposed to the council to send two letters. One is a Council Notice of Violation, which will be sent to owners who have not submitted a permit renewal application to our office as of the date of the

council meeting. The Notice of Violation will require dam owners to clear their dam and schedule an inspection of the dam with the Water Resources Program within 60 days otherwise their dam will be referred to the Attorney General's Office. The council needs to decide if that is what they would like to see the program do.

Mr. Cawlfeld made a motion to send a Council Notice of Violation to dam owners who did not get their permits renewed during FY04. Mr. Freeman seconded the motion and it passed.

The second recommendation to the council is a second letter, which will be sent to all dam owners except those that will be receiving a Council Notice of Violation. This letter will be to inform the dam owners of the legislatures decision to reinstate the funding for the two positions and allow us to begin inspecting dams again. Mr. Alexander told Ms. Hagerty that at this point he thought it might be a good idea to open the floor up for public comment. Ms. Hagerty asked if the dam owners present understood what was going to occur. Guy Wood indicated that he did understand and told the council that he was an owner of 6 of the dams on the agenda and in order to get the dams inspected and permitted it was going to cost him approximately \$4000.00 each. Mr. Wood explained to the council his reasons behind not having his permits renewed before they expired. Ms. Hagerty asked if he understood that the letter he was going to receive would allow him a particular amount of time to get the dams ready and inspected by the program at no cost to him. Mr. Wood told the council that he would be the first person to call to schedule his inspections.

Russ Adams asked to address the council. He said that what the state did for inspections prior to July 1, 2004 was not the same as what was required of the private engineers. He stated that there was a lot more work involved for the private engineers than there was for the state engineers. He also pointed out that when the fiscal year began, private engineers were encouraged by the staff and the council to get into this program. There was a lot of money spent to get started in the inspection program. He also stated that now the council has decided that the staff will do the inspections for the permits that expired during FY04. He also told the council that the information about the program doing inspections was told to certain dam owners at least two months ago and he felt that it interfered with some of the negotiations occurring between private engineers and dam owners. He also stated that he did not know how the state was going to have the resources to do the inspections and include a survey with each inspection. He told the council that he would like to see the program continue with the practice of allowing private engineers to perform inspections for permit renewals.

Ms. Hagerty explained to Mr. Adams that it was the legislature who decided to remove the funding for the positions last year but it was still the responsibility of the staff and the council for those dams so that is why it was necessary for the program to require the owners to hire a private engineer to do the permit renewal inspections. The council did review the procedures and it was concluded that they were appropriate under the law and regulations of the State of Missouri. Now that the funding has been returned to the program it is appropriate that the state begin doing inspections for the citizens of Missouri. She told Mr. Adams that she believes that everything the council and the staff have done have been appropriate responses to the actions of the legislature.

Mr. Alexander reported that the following dams have been inspected and a permit application submitted which is currently being reviewed by the program. There is no action from the council required at this time.

Flying "S" Ranch Dam #2 (MO31124) Washington County

Lauck Lake Dam	(MO40068)	Scott County
Cadet Mine Tailings Dam	(MO30715)	Washington County
Carter Lake Dam	(MO31156)	Washington County
Mineral Point #1 Dam	(MO30705)	Washington County
Higbee City Lake Dam	(MO10660)	Randolph County
Haladale Dam	(MO30527)	Crawford County
Abell Dam	(MO30574)	Franklin County
Gun Club Lake Dam	(MO30476)	Washington County
Lipps Dam	(MO30214)	Cape Girardeau County
Settle Mine Tailings Dam	(MO30479)	Washington County
Owl Creek Estates Dam #2	(MO31959)	Warren County
Dresser #10 Dam	(MO31153)	Jefferson County
Prairie Lee Lake Dam	(MO10044)	Jackson County

COUNCIL NOTICE OF VIOLATION

Mr. Alexander reported that the following list of dams expired during FY04 and the owners did not hire a private engineer to do their permit renewal inspection. The recommendation was that these dam owners receive a Council Notice of Violation giving the owners 60 days to clear their dam and schedule an inspection with Dam Safety in order to get their permit renewed.

Charity Lake Dam	(MO11030)	Atchison County
Harmony Mission Dam	(MO20767)	Bates County
Smartt Dam	(MO20467)	Benton County
Lake of the Hills Dam	(MO30077)	Bollinger County
Country Boy Estates Dam #2	(MO11579)	Boone County
Perry Phillips Dam	(MO10019)	Boone County
Hamilton City Water Plant	(MO10261)	Caldwell County
Whetstone Crk. Wildlife	(MO10876)	Callaway County
Little Dixie Dam	(MO10888)	Callaway County
Forest Lake Dam	(MO10062)	Callaway County
Lake Girardeau Dam	(MO30066)	Cape Girardeau County
Marceline New Res. Dam	(MO12127)	Chariton County
Binder Dam	(MO30051)	Cole County
Oswald Dam	(MO10780)	Cooper County
Brummet Dam (Dry)	(MO30033)	Crawford County
Geisz Dam	(MO30741)	Crawford County
Lake Serene Dam	(MO30542)	Franklin County
Whispering Valley Dam #2	(MO30535)	Franklin County
Whispering Valley Dam #1	(MO30545)	Franklin County
Stonegate Dam	(MO20808)	Greene County
Moniteau Crk. Wtrshd A-3a	(MO12382)	Howard County
Whispering Hills Dam	(MO20128)	Jackson County
Adams Dairy Pkway Dam	(MO20793)	Jackson County
Hidden Valley Dam	(MO30418)	Jefferson County
Lake Briarwood Dam	(MO30400)	Jefferson County
Weber Hill Terrace Dam	(MO30449)	Jefferson County
Deer Ridge Comm Dam	(MO10109)	Lewis County

White Lake Dam	(MO12220)	Lincoln County
Lake Louise Dam	(MO12381)	Livingston County
Indian Creek Comm. Dam	(MO12221)	Livingston County
Lake Wata Dam	(MO10671)	Randolph County
Upper Little Black D-4	(MO31862)	Ripley County
Upper Little Black A-2	(MO31938)	Ripley County
Upper Little Black A-7	(MO31829)	Ripley County
Busch Wildlife #37 Dam	(MO10088)	St. Charles County
Lac Marseilles Dam	(MO30282)	St. Francois County
Holeman Lake Dam	(MO30275)	St. Francois County
Lake Trails Dam	(MO11104)	St. Louis County
Joe Machs Lake Dam	(MO32028)	St. Louis County
Lake Ocie Dam	(MO30085)	Ste. Genevieve County
Lake Lasata Dam	(MO31916)	Ste. Genevieve County
Lake Wanderfern Dam	(MO11132)	Warren County
National Lead Ind. Dam	(MO30708)	Washington County
Gibson Memorial Dam	(MO32036)	Washington County
Cadet #3 Dam	(MO31830)	Washington County
Black Tailings Dam	(MO31154)	Washington County
Dresser Ind. Old #1 Dam	(MO30753)	Washington County
Big Four Mine Dam	(MO30729)	Washington County
Ditch Creek Dam	(MO30726)	Washington County
Desoto Mine Pit & Plant "A"	(MO30468)	Washington County
Blackwell Mine Dam	(MO30709)	Washington County
Cadet #2 Dam	(MO30707)	Washington County
Cadet #1 Dam	(MO30704)	Washington County
Abney Lake Dam	(MO30695)	Washington County
Lakeview Dam	(MO30688)	Washington County
Desoto Pit & Plant "B" Dam	(MO30469)	Washington County
Indian Crk. Mine Dam-lower	(MO30717)	Washington County
Freebird Dam	(MO32056)	Wright County

ATTORNEY GENERAL REFERRALS

Brays Lake Dam – MO30098 – Mr. Alexander gave a brief history of the dam starting with when the permit was originally issued in 1987. He explained that the permit was issued contingent upon the owner being willing to maintain the reservoir at or below elevation 925.0 (site datum) and the owner agreed to sign a statement agreeing to this. However, since that time the owner has not consistently lived up to his obligation to keep the water level drawn down. The owner's failure to live up to the conditions of the permit led to the permit not being renewed in 1997.

Following several years of trying to get the owner to comply with the conditions of the permit, the owner was sent a staff notice of violation on December 9, 2003. This letter asked him to retain an engineer to inspect the dam and submit a permit renewal application by March 1, 2004. To date, the owner has not responded to this request. Prior to the council meeting staff from the program made a site visit to the dam and found that the lake level is still above the agreed upon elevation. To date the owner has not responded to our request.

Mr. Alexander recommended that the council continue the enforcement process by referring the owner to the Attorney General's Office.

Mr. Frueh made a motion to refer the owner to the Attorney General's Office. Mr. Freeman seconded the motion and it passed.

Old Mines Tailings Dam – MO30706 – Mr. Alexander gave a brief history of the dam starting with the permit not being renewed in 1997 due to inadequate maintenance and gravel being removed from the dam. Following enforcement actions taken by the program and council, the Dam Safety Program was notified that Big River Land Company had sold the dam to Tim and Dale Thebeau. After attempts to get the Thebeaus to schedule a permit renewal inspection by the Dam Safety staff failed, a staff notice of violation was sent to the owners. They were asked to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, they have not responded to this NOV. The owner has still not responded to our request that they have their dam inspected and submit a permit renewal application.

Mr. Alexander recommended to the council that the owner be referred to the Attorney General's Office for further enforcement activity.

Mr. Freeman made a motion to refer the owner to the Attorney General's Office. Mr. Frueh seconded the motion and it passed.

Flying S Ranch Dam #2 – MO31124 – Mr. Alexander gave a brief history of the dam. He explained that registration permit R-183 expired on March 21, 2002. Prior to the permit expiring, the owner was contacted to remind him of the need to contact the Dam Safety staff to schedule a permit renewal inspection. The owner failed to schedule the inspection and the permit expired. The owner also did not respond to later requests to schedule the inspection. On January 12, 2004, the owner was sent a staff notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. The owner was notified that he was in violation of the dam safety law because his permit was expired and he had not submitted a permit renewal application. To date, the owner has not responded to the staff notice of violation.

The owner was issued a Council Notice of Violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the program by June 1, 2004. To date, the owner has not responded to the Council Notice of Violation.

Mr. Alexander recommended that the council refer the owner to the Attorney General's Office for failure to retain a private engineer to inspect their dam and submit a permit renewal application.

Mr. Freeman made a motion to refer the owner to the Attorney General's Office. Mr. Cawfield seconded the motion and it passed.

Cool Valley Lake Dam – MO30554 – Mr. Alexander gave a brief history of the dam. He told the council that the last time someone from our office had been out to the dam it appeared as if the hazard classification had changed on the dam. The question of the hazard classification was not resolved and there is nothing in the file to show that an inspection report was written up for the dam.

Mr. Alexander reported that a notice of violation was sent to the owner of the dam on January 12, 2004 asking the owner to retain an engineer to inspect the dam and submit a permit renewal application by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Alexander reported that the owner had been issued a Council Notice of Violation asking the owner to retain a private engineer to inspect the dam and submit a permit renewal application by June 1, 2004. To date, the owner has failed to retain an engineer and submit a permit renewal application.

Mr. Alexander recommended that the council refer the matter to the Attorney General's Office for further enforcement action.

Mr. Freeman made a motion to refer the owner to the Attorney General's Office. Mr. Cawlfeld seconded the motion and it passed.

Yarger Lake Dam – MO30237 – Jim Alexander gave a brief history of the dam. Mr. Alexander told the council that the owner was an attorney and he is questioning whether his dam meets the legal definition of "dam" found in Section 236.400(5) of the Revised Statutes of Missouri. His question stems from the fact that to date the lake has not maintained a permanent pool of water.

Mr. Alexander reported that a permit was previously issued for the dam and had been renewed twice. The last renewed permit expired on March 10, 2002. Prior to the permit expiring, the owner was sent a notice that he would need to have his dam re-inspected to have his permit renewed. The owner sent a letter stating that he did not have a dam and therefore would not have the dam inspected. As a result, the permit expired and the owner is now in violation of the Dam Safety Law for not having a valid permit for his dam.

A Council Notice of Violation was sent to the owner asking that he retain an engineer to inspect his dam and submit a permit renewal application by June 1, 2004. On April 21, 2004 our office received a letter from the owner of the dam indicating that he did not have a dam and had no intentions of hiring an engineer to inspect his dam at any time. He also indicated in his letter that if we would like to refer him to the Attorney General's Office he wanted us to do so.

After some discussion, Mr. Frueh made a motion to refer the matter to the Attorney General's Office for further enforcement. Mr. Freeman seconded the motion and it passed.

AGRICULTURAL EXEMPTION REQUEST

Mossy Hill Dam – MO20332 - Mr. Alexander began by giving a brief history of the dam and discussing the requirements of an agricultural exemption. He then summarized the agricultural exemption request the owner, Mr. Charles Rudisill, had submitted. The application states that the dam will be used primarily for livestock watering and crop irrigation. Mr. Alexander showed the council pictures of the livestock, which do not have direct access to the lake.

Mr. Alexander told the council that the owner had placed a barrel on the downstream side of the dam and was going to run a pipe from the lake to the barrel to water the livestock. At the time of the site visit there was not a pipe running from the lake to the barrel and the livestock were unable to access the lake for drinking water. There was no irrigation equipment on site either.

Mr. Frueh made a motion to deny the agricultural exemption request. Mr. Freeman seconded the motion and it passed.

FY-2004 BUDGET

Mimi Garstang, Director for the Geological Survey and Resource Assessment Division updated the council on the status of the budget for FY-04. She told the council that the biggest change was the money being restored that had been taken away last year. She also told the council that the Dam and Reservoir Safety Program would remain combined with the Water Resources Program. We are in the process of trying to rehire staff and begin the inspection process again.

DATE AND LOCATION OF NEXT COUNCIL MEETING

The next meeting of the Dam and Reservoir Safety Council will be September 8, 2004 at 10:00 a.m. Due to construction work that will start in May 2004, the conference room at the Geological Survey and Resource Assessment Division will not be available again until next fall. The meeting will be held at the Phelps County Courthouse in Rolla, Missouri.

VOTE TO GO INTO CLOSED SESSION AT THE BEGINNING OF THE NEXT MEETING

Mr. Frueh made a motion that the Dam and Reservoir Safety Council meet in closed session at 10:00 a.m. on September 8, 2004 at the next regular council meeting for the purpose of discussing personnel actions, legal actions, causes of action, or litigation, confidential and privileged matters with the council's attorney, testing and examination, personnel records or applications or records which are otherwise protected from disclosure by law as provided for in Section 610.021, RSMo.

Mr. Frueh seconded the motion. Roll Call vote: Zoretta Schoonover, yes; Dean Freeman, yes; Mary Hagerty, yes; Richard Frueh, yes. Motion carried to move into closed session at the meeting on September 8, 2004.

MEETING ADJOURNED

Mr. Freeman made a motion to adjourn the meeting. Mr. Frueh seconded the motion and it passed.

Respectfully Submitted,

Tammy Theilen